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"If an illegitimate child, who has not been acknowledged or adopted by his father, dies intestate, without lawful issue, his estate goes to his mother, or, in case of her decease, to her heirs at law." It would seem to be a strained construction of this statute to allow the mother to inherit where the child has been legitimated. In *Allison v. Bryan*, 21 Okla. 557, 18 L. R. A. N. S. 931, a father who had legitimated his child was held entitled to its custody as against its mother, under a statute providing that "the father of a legitimate unmarried minor child is entitled to its custody, services, and earnings." This invaded a well recognized right of the mother, since in general the right of the mother of a natural child to its custody is superior to that of its reputed father, *Hudson v. Mills*, 8 N. H. 417. But in *Allison v. Bryan*, 26 Okla. 520, (a case between the same parties) the father was denied the right to adopt the child with the consent of his wife, against the wishes of its mother. In conflict with the decision in the principal case is *Pratt v. Pratt*, 5 Mo. App. 542, which declares that a legitimated child may be inherited from, in an ascending, descending or collateral direction. The case of *McCormick v. Cantrell*, 15 Tenn. 614, which held that a statute declaring that an illegitimate child shall in all respects, both in law and equity, be upon an equal footing with the father's other children, does not enable the father to inherit from him, lends support to the decision in the principal case. By perhaps the weight of authority an adoptive father cannot inherit from an adopted child under statutes providing that "he shall be deemed and taken to all legal intents and purposes, the child of the persons adopting him." *Hole v. Robbins*, 53 Wis. 514; *Upson v. Noble*, 35 Ohio St. 655. But as legitimation creates a status it would seem that all the incidents of that status should be recognized.

MASTER AND SERVANT—FEDERAL REGULATION—HOURS OF SERVICE.—Two employees of a railway carrier were kept on duty for more than sixteen consecutive hours by reason of the same delay of a train, on which they were to perform labor. Held, that a separate penalty was incurred for each employee kept on duty contrary to the Hours of Service Act of March 4, 1907, (34 Stat. at L. 1415, Chap. 2939), such statute making the carrier which permits "any employee" to remain on duty in violation of its terms liable to a penalty "for each and every violation." *Missouri, Kansas, & Texas Railway Co. of Texas and American Surety Co. of New York, Petitioners, v. United States*, 34 Sup. Ct. 26.

The petitioner's argument was to the effect that "when one act has several consequences that the law seeks to prevent, the liability attaches to the act, and is but one;" that the "delay of the train was such an act, and the principle * * * applies." In answer the court observed, "The statute was not violated by the delay. That may have made keeping the men overtime more likely, but was in itself not wrongful conduct quoad hoc. The wrongful act was keeping an employee at work overtime, and that act was distinct as to each employee so kept." Singularly the precise question involved here has been of very infrequent occurrence, and in determining the solution it would

seem that the general principles relating to the recovery of cumulative penalties under a penal statute are applicable. In view of the fact that nearly all of the cases discussing the question whether a statute imposing a penalty is to be construed as authorizing the recovery of cumulative penalties, have turned in great measure upon the language of the particular act under which penalties were sought to be recovered, it is practically impossible to lay down any general rule or rules applicable in all cases to particular classes of statutes. However, it is almost universally recognized as a general rule that a penal statute must be strictly construed, and that cumulative penalties are not recoverable unless the legislative intent to impose such penalties is clear and unambiguous. *State v. Wisconsin Central Ry. Co.*, 133 Wis. 478; *Sturgis v. Spofford*, 45 N. Y. 446; *Morgan v. Hedstrom*, 164 N. Y. 224. The court in the principal case, recognizing the foregoing rule, based its decision upon the clear meaning and wording of the statute, as evidenced by its words; "The statute makes the carrier who permits 'any employee' to remain on duty in violation of its terms, liable to a penalty 'for each and every violation.' The implication of these words cannot be made much plainer by argument. But it may be observed, as was said by the government, that as towards the public, every overworked man presents a distinct danger, and as toward the employees each case is distinct." See *U. S. v. St. Louis Southwestern R. Co.*, 184 Fed. 28; *People v. Spencer*, 201 N. Y. 105. In so far as the decision authorizes the recovery of cumulative penalties under the statute it is undoubtedly supported by the weight of authority although there is apparent conflict on the question. *Brooke v. Milliken*, 3 T. R. 509; *Holland v. Bothmar*, 4 T. R. 228; *Milnes v. Bale*, L. R. 10 C. P. 591; *Indianapolis etc. R. Co. v. People*, 32 Ill. App. 286; *Southern Ry. Co. v. State*, 165 Ind. 613; *Lippert v. Lippert*, 110 Iowa, 550; *Kennedy v. Saunders*, 142 Mass. 9; *U. S. v. Chicago, G. W. R. Co.* 162 Fed. 775; *Commonwealth v. Chesapeake etc. R Co.*, (Ky.) 108 S. W. 851; *Pittsburg etc. R. Co. v. Moore*, 33 Oh. St. 384; *Contra; Geo. F. Dittman Boot etc. Co. v. Mixom*, 120 Ala. 206; *Loveland v. Garner*, 71 Cal. 541; *Kansas City etc. R. Co. v. Spencer*, 72 Miss. 491; *Clark v. Lisbon* 19 N. H. 286; *Parks v. Nashville etc. Ry. Co.*, 13 Lea. 1. It is interesting to observe in this connection, the words of the court in *Balto. etc. R. Co. v. U. S.*, 220 U. S. 94, a case arising through failure of a carrier to unload cattle at certain specified times, according to a statutory enactment, which imposed a penalty for such failures; "Under the Twenty Eight Hour law, the test of a railway company's liability with respect to the number of penalties to be imposed, where a number of different shipments loaded at different points and different times, have been carried by the same train, is the number of times the company failed to unload as required by statute. This does not depend in any manner on the carload or on the shipment, and if two shipments of different owners are made at the same time, then, in case of a violation of the statute as to both, but one penalty may be imposed." See also *U. S. v. Southern Pac. R. Co.*, 157 Fed. 459; *U. S. v. Atchison etc. R. Co.*, 166 Fed. 160; *U. S. v. Sioux City Stock Yards Co.*, 162 Fed. 556.